

REMARKS

I. Introduction

In response to the Office Action dated December 15, 2004, claims 11-12 have been cancelled, claims 8, 14, 26 and 27 have been amended, and new claims 31-32 have been added. Claims 8-10 and 13-32 are pending in the application. Reconsideration of the application, as amended, is requested.

II. Claim Amendments

Applicants' attorney has made amendments to the claims as indicated above. These amendments were made solely for the purpose of clarifying the language of the claims, and do not introduce new matter. Entry of these amendments is respectfully requested.

Claim 8 has been amended to incorporate the features of cancelled claims 11 and 12.

Claim 14 has been amended to correct the typographical error noted by the Examiner.

Claim 26 has been amended to incorporate the features of previous claim 8 and claim 25.

Claim 27 has been amended to correct the reference to claim 26, from which it depends.

New claim 31 incorporates all of the features of claim 17 (prior to the amendment to claim 8).

New claim 32 incorporates the features of claims 17 and 25, but with dependency from new claim 31.

III. Sequence Listing

At page 2 of the Office Action, it was indicated that the CRF of the Sequence Listing previously submitted could not be processed, and Applicants were requested to address the problem indicated on the CRF Diskette Problem Report provided with the Office Action. In response, Applicants submit today, under separate cover and via Express Mail, a replacement CRF along with a copy of the CRF Diskette Problem Report and a Statement Under 37 CFR §1.825(d).

IV. Priority Claim

At pages 2-4 of the Office Action, Applicants' claim for priority from the PCT and provisional patent applications was acknowledged, but it was indicated that Applicants must recite the priority claim on the first page of the specification. Applicants have amended page 1 of the specification to recite this priority claim.

V. Prior Art Rejections

At pages 4-6 of the Office Action, claims 8-10, 13-16, 18-25 and 30 were rejected under 35 U.S.C. §102 as being anticipated by Dull et al. At page 6 of the Office Action, claims 8, 9, 13-15, 19-21, 23-25 and 30 were rejected under 35 U.S.C. §102(a) as being anticipated by Chen et al.

Applicants respectfully traverse these rejections. The amendments to the claims, however, render these rejections moot. Applicants reserve the right to present the subject matter of these claims in a future application.

VI. Non-Art Rejections

At pages 6-7 of the Office Action, claims 27-29 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite because of a lack of antecedent basis for the term "the heterologous inducible regulatory element". This term appears in claim 26, and claim 27 has now been amended to correct the dependency of claim 27 from claim 25 to claim 26.

Claims 11 and 14 were objected to because of a typographical error in the recitation of "he" rather than "The". Claim 11 has been cancelled, and claim 14 has been amended to correct this error.

VII. Allowable Subject Matter

At page 7 of the Office Action, claims 11-12, 17 and 26 were objected to as being dependent upon a rejected base claim, but indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants appreciate the Examiner's indication of allowable subject matter, and have amended the claims to put them in condition for allowance.

VIII. Conclusion

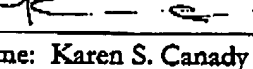
In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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